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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT

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IGOR LESCHINSKY on behalf of himself and 1:12-CV-02166-FB-JO  
all other similarly situated consumers,

Plaintiff,

-Against-

**ANSWER AND AFFIRMATIVE  
DEFENSES**

GEM RECOVERY SYSTEMS L.L.C.

Defendant

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Awar Holdings, Inc. d/b/a Gem Recovery Systems<sup>1</sup> by and through its attorneys, Sarno & DeFelice, as and for its ANSWER to the COMPLAINT hereby denies each and every allegation of the Complaint except as expressly set forth below:

1. Admits that Plaintiffs purport to seek relief but otherwise denies the allegations of paragraph 1.
2. Defendant has insufficient information and knowledge to form a belief as to the truth of the allegations set forth in paragraph 2 and therefore, denies the same.

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<sup>1</sup> Gem Recovery Systems, LLC is improperly named in this action. That entity is, upon information and belief, a defunct or shell entity which no longer operates. Awar Holdings, Inc. d/b/a Gem Recovery Systems purchased its assets (including the name "Gem Recovery Systems") in July 2005.

3. Defendant has insufficient information and knowledge to form a belief as to the truth of the allegations set forth in paragraph 3.

4. Defendant admits the allegations of paragraph 4 of the Complaint.

5. Defendant admits the allegations of paragraph 5 of the Complaint to the extent that it alleges that the Defendant is engaged for profit in the collection of debt from consumers and denies the paragraph to the extent of the use of the term allegedly.

6. Defendant admits the allegations of paragraph 6 of the complaint.

**Answer to Allegations Concerning Jurisdiction and Venue**

7. Defendant admits the allegations of paragraph 7 of the Complaint.

8. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 8 of the complaint.

**Answer to Allegations Pertaining to Igor Leschinck**

9. Defendant admits paragraph 9 of the complaint to the extent that Defendant attempted to collect a debt from the plaintiff and denies the remaining allegations.

10. Defendant denies the allegations of paragraph 10 of the Complaint.

11. Defendant denies the allegations of paragraph 11 of the Complaint.

12. Defendant denies the allegations of paragraph 12 of the Complaint.

13. Defendant denies the allegations of paragraph 13 of the Complaint.

14. Defendant denies the allegations of paragraph 14 of the Complaint.

15. Defendant denies the allegations of paragraph 15 of the Complaint.

16. Defendant denies the allegations of paragraph 16 of the Complaint.

17. Defendant denies the allegations of paragraph 17 of the Complaint.

18. Defendant denies the allegations of paragraph 18 of the Complaint.

19. Defendant denies the allegations of paragraph 19 of the Complaint.

**Answer to First Cause of Action**

**Violations of the Fair Debt Collection Practices Act brought by plaintiff on behalf of himself and the members of a class, as against the defendants.**

20. Defendant denies the allegations of paragraph 20 of the Complaint.

21. Defendant admits that Plaintiff purports to bring a class action but denies that class action is appropriate.

22. Defendant denies the allegations of paragraph 22 the Complaint.

23. Defendant denies the allegations of paragraph 23 the Complaint.

24. Defendant denies the allegations of paragraph 24 the Complaint.

25. Defendant denies the allegations of paragraph 25 of the Complaint.

26. Defendant denies the allegations of paragraph 26 of the Complaint.

27. Paragraph 27 of the Complaint does not state a fact that is required to be admitted or denied.

28. Defendant denies the allegations of paragraph 28 of the Complaint.

**Answer to Violations of the Fair Debt Collection Practices Act**

29. Defendant denies the allegations of paragraph 29 of the Complaint.

30. Defendant denies the allegations of paragraph 30 of the Complaint.

**FIRST AFFIRMATIVE DEFENSE**

31. Each and every Cause of Action of the Complaint fails to state a claim for which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

32. The claims set forth in the Complaint are barred to the extent that any violation of the Fair Debt Collection Practices Act by the Defendant, which the Defendant denies, as not

intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

**THIRD AFFIRMATIVE DEFENSE**

33. The Complaint must be dismissed for failure to name the correct party.

**FOURTH AFFIRMATIVE DEFENSE**

34. Defendant reserves its right to seek reasonable attorneys' fees and costs on finding that this action was brought in bad faith and for the purpose of harassing the Defendant.

**FIFTH AFFIRMATIVE DEFENSE**

35. The Complaint must be dismissed because it was brought in an improper venue.

**WHEREFORE**, the defendant requests that the Complaint be dismissed with prejudice and the court grant such other and further relief as may be required by the interests of justice, including without limitation, costs of defense and a reasonable attorney's fee.

The Defendant, GEM RECOVERY  
SYSTEMS, .L.L.C.

Dated: April 11, 2013

BY:

/s/ James A. DeFelice  
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